



August 3, 2009

The Honorable Bernie Buescher, Secretary of State  
Department of State  
1700 Broadway  
Denver, CO 80290

**Re: Comments regarding August 3, 2009 rulemaking hearing**

Colorado Common Cause is a nonpartisan, nonprofit organization that works for open, honest, and accountable government and seeks to strengthen public participation. We appreciate the opportunity to comment on the proposed rules.

Rule 2.7 We support this rule as it clarifies that counties may utilize necessary information that is available to them to register voters when information may have been inadvertently left off the registrant's application.

Rule 11.5.4.1 The proposed rule changes the time when the devices to be audited will be sent to the counties from 24 hours to 48 hours. We would like clarification of why this change is being proposed. We strongly support post election audits. One benefit to having the notice go out quickly is that it provides counties time to prepare for their audit and notify the public of when the audit will take place so they can observe.

Rule 12.7.2 and Rule 13.8.1 These rules address the requirement that a voter be sent a letter if they failed to provide a copy of their identification as required with some mail ballots. We supported this statutory change and recommend that the rule include the language from the current Rule 29.1.1 which states "nothing in this rule shall be construed to prohibit the designated election official from calling [or emailing] the elector; however, a phone call shall not substitute for notification to the elector in writing."

Rule 13.12.2 We seek clarification on this rule to understand what is meant by "the mail in ballot must be voided prior to issuing the early voting ballot." Does the Secretary mean that the voter would need to 'surrender' their ballot as referenced in current Rule 12.11 or would the election judge 'void' the ballot in an electronic poll book or through some other notation? We do not support this rule if a voter is required to physically surrender his or her ballot to vote.

Rule 13.13.2 This rule requires voters to file a separate mail in ballot request if they wish to have a mail ballot sent to an address that is not their address of record. We recommend that the

designated election official be required to send notice to voters about the elections that they will receive ballots, and that there may be elections where they would need to notify their local officials in order to participate by mail.

Rule 15.1.1 We are concerned that proposed rule does not properly target the entities that are required to register as petition entities with the Secretary of State's office. We agree that any person (including proponents and issue committees) who intends to hire circulators directly needs to register as petition entities and complete the training and other requirements mandated by 1-40-135.

However, it is a common practice for issue committees to contract with a third-party petition firm, who then hires the circulators to gather petition signatures. In this instance, we believe that it is important that the rules clarify that the rule applies only to the person that will hire, pay and oversee the circulators (whether it be the proponent, the ballot issue committee, or, where applicable, the third-party circulation company), and that person is responsible for registering as a petition entity and complying with the requirements.

We recommend amending the proposed rules as follows (changes underlined in language below):

Rule 15.1 would be amended as follows:

15.1 Each petition shall be verified according to the procedures set forth in Rule 17.1.

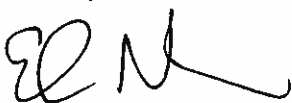
REGISTRATION, LICENSE, AND FILING PROCEDURES.

15.1.1 IN ACCORDANCE WITH SECTION 1-40-135, C.R.S., ANY PERSON PETITION PROPONENT OR ISSUE COMMITTEE THAT INTENDS TO COMPENSATE PETITION CIRCULATORS MUST REGISTER WITH, AND OBTAIN A PETITION ENTITY LICENSE FROM THE SECRETARY OF STATE PRIOR TO COMPENSATING ANY CIRCULATOR.

IF A PROPONENT OR ISSUE COMMITTEE CONTRACTS WITH A THIRD-PARTY TO HIRE CIRCULATORS TO COLLECT SIGNATURES, THAT THIRD-PARTY IS RESPONSIBLE FOR REGISTERING AS A PETITION ENTITY AND MEETING THE REQUIREMENTS ESTABLISHED IN 1-40-135.

Thank you for the opportunity to comment. Please contact us if you have questions.

Thank you,



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